

**CITY OF FREDERICK
BOARD OF ZONING APPEALS
PROJECT STAFF REPORT**

December 17, 2013

PROJECT INFORMATION

AGENDA ITEM:	C.
NAME OF PROJECT:	Lallo's Pizza - 5 Willowdale Drive, Unit A-6
TYPE OF PROJECT:	Conditional Use
CASE NUMBER:	ZBA13-878CU
OWNER:	Willowtree Plaza Associates LLC
PROJECT ADDRESS:	5 Willowdale Drive, Unit A-6
APPLICANT:	Lallo's Pizza C/o Juan Rojas
PHONE:	240-629-8515
ZONING:	GC (General Commercial)
REVIEWED BY:	Jeffrey D. Love
DATE:	December 10, 2013
PROPOSED ACTION:	The Applicant is requesting conditional use approval in accordance with Sections 308, 312, and 856 of the Land Management Code to establish a restaurant with entertainment.
EXHIBITS:	Exhibit 1, Application Exhibit 2, Supplemental Response

BACKGROUND INFORMATION

The Applicant is requesting approval of a conditional use for the establishment of entertainment at the existing restaurant at 5 Willowdale Drive, Unit A-6. The restaurant has been in operation since August 30, 2013 and was in use for many years prior as "Buffalo Wings & Beer" which closed at the end of 2012. Per the application, the live entertainment proposed includes acoustic music on Thursday and Friday from 6-8 PM and DJ's and other live music Sunday through Saturday from 9 PM – 2 AM.

Staff and the Applicant have discussed the proposal at length and it is agreed that the Application does not meet the requirements of §856(e), the minimum standard for the separation between the restaurant and the nearby residential zoning districts. The Applicant has chosen to proceed with the application in spite of this deficiency in order to discuss the merits of his request with the Board.

STAFF COMMENTS & ANALYSIS

Section 308(c) of the Land Management Code (LMC) allows the Zoning Board of Appeals to authorize conditional uses included in Article 8 of the LMC only when the Board finds that all of the following conditions exist:

- 1. The proposed use is in harmony with the purpose and intent of the Comprehensive Plan and the LMC.**

Applicant responds. *Entertainment will never include nudity or sexual conduct. Entertainment will never affect our neighbors or surrounding communities.*

Staff responds: The subject property is zoned General Commercial (GC), where a restaurant with entertainment is permitted as a conditional use per Section 404, Table 404-1 of the LMC, the *Use Matrix*, when all of the conditions of §856 are met. The GC district is intended to provide for a variety of retail use and services in free-standing parcels or shopping centers to serve the community's general commercial needs. The subject property is also shown as "Commercial General" on the Comprehensive Plan map and the use is consistent with that classification as well.

Although restaurants with entertainment are permitted in the GC zoning district as noted, it is only when they comply with the standards adopted for their establishment. These conditions have been adopted with the goal of ensuring that the use is consistent with the purpose and intent of the Comprehensive Plan which includes policy statements such as Land Use Policy 1 which is to encourage development that is compatible with the character of existing or planned development in the vicinity. If the standards adopted for the approval of a conditional use serve the purpose of promoting compatibility and preventing negative impacts on surrounding land uses and properties, than noncompliance with any one of the conditions of approval can be interpreted as inconsistency with the Comprehensive Plan.

As noted in the background information, the subject location does not comply with all of the criteria under §856, specifically, subsection (e) which states, "*Except in the DB zone, no restaurant with entertainment is permitted to be closer than five hundred (500) feet from a lot in a residential district.*" This criteria serves the purpose of protecting neighboring residential land uses from any potential negative impacts associated with live entertainment at restaurants which could include noise at hours and times that are not compatible with the peaceful enjoyment of people in their homes, a consideration within the Board's purview per §312. As such, Staff cannot concur that the proposed use is in harmony with the purpose and intent of the Comprehensive Plan and the LMC.

- 2. The characteristics of the use and its operation on the property in question and in relation to adjacent properties will not create any greater adverse impact than the operation of any permitted use not requiring conditional use approval.**

Applicant responds: *Entertainment will be offered to solely enhance dining experience of patrons. Well trained security staff will be on duty when DJ or live music take place.*

Staff responds: A variety of different uses are permitted in the GC zoning district, from theaters and reception facilities to dance and music instruction. In regards to the characteristics of the use, a restaurant with entertainment is anticipated to generate several impacts which may exceed that of a general restaurant, which is permitted by right. These may include increased pedestrian and vehicular traffic as well as noise. Although there are a broad range of uses permitted in the GC district which have the potential to generate a variety of impacts, Staff finds that the failure to comply with the minimum separation distance between neighboring residential uses is a characteristic specific to this property that creates the potential to generate a greater adverse impact than other permitted uses. Staff further finds that the use on this specific property could also create greater impacts on adjacent properties than other restaurants operating with entertainment that comply with the minimum separation standards.

- 3. That the proposed activity will comply with all conditions and requirements set forth in Article 8 of LMC.** In the case of Restaurants with Entertainment, Section 856 outlines the conditions as follows:

Our restaurant will follow and meet all requirements set by the City of Frederick.

- a. This is intended to be a business establishment which offers for sale unpackaged food to the consumers in a ready-to-consume state, in individual servings or in non-disposable containers, and where the customer consumes these foods while seated at tables located within the building.**

Applicant responds: *Our restaurant sells food to the consumers in a ready-to-consume state.*

Staff responds: Upon inspection of the property and the menu, Staff concurs that the existing restaurant meets this criteria.

- b. There must be regular seating capacity at tables (not including seats at counters or bars) for at least eighty (80) percent of the patrons.**

Applicant responds: *We will keep seats for at least 80% of our legal capacity (Exhibit C).*

Staff responds: The seating diagram provided shows 92 seats at tables. The fire rated capacity of the restaurant is 114 people. Seating at tables will be 80.7% of the fire rated capacity.

In addition, it should be noted that House Bill 787 / Senate Bill 321, approved by the Maryland General Assembly during the 2012 Legislative Session, authorizes Frederick

County restaurants with Class B beer, wine and liquor licenses the opportunity to remove tables and chairs up to four times per calendar year. This law went into effect to allow additional patrons into restaurant establishments. Restaurants who remove their tables and chairs cannot exceed the occupancy limit established by the County Fire Marshal. Restaurant establishments must notify the Frederick County Board of License Commissioners not less than one (1) week before the event.

- c. Alcoholic beverages (including off premises sales alcoholic beverages) and entertainment should not constitute greater than forty (40) percent of the total quarterly revenues.**

Applicant responds: We will guarantee that the sales of alcoholic beverages will never be greater than (40) percent of the quarterly revenues (Exhibit D).

Staff responds: Based on the Applicants response, Staff believes that the Applicant understands the requirement; however, since the restaurant has not been in operation for a full quarter and since the entertainment has not commenced there are no current revenues to assess. If the application were to be approved, Staff recommends that the Applicant provide quarterly financial statements for a one year period beginning with the first quarter of 2014 in order for the assessment period to include operation during which entertainment is provided as the Board has required in the past.

- d. Except as provided in the DB zone, the applicant shall be required to demonstrate that parking can be provided on site and will not have a substantial adverse impact on the adjacent neighborhood or properties.**

Applicant responds: No response.

Staff responds: The property was improved with the current buildings in 1986 and parking provided in accordance with the zoning regulations at that time. The current use of the property as a multitenant shopping center assumes that shared parking is used to serve all of its tenants. It is assumed that the property was parked at 5 spaces per 1,000 SF of gross leasable floor area, the minimum requirement at that time. As shopping center regulations assume some type of synergy of uses and that all uses may not be in peak operation at the same time, Staff concurs that adequate parking will be available during the times of the proposed entertainment. Additionally, the shopping center owner/operator is party to the application and is aware of the potential impacts on their other tenants.

- e. Except in the DB zone, no restaurant with entertainment is permitted to be closer than 500 feet from a lot in a residential district.**

Applicant responds: We understand the ordinance requires a restaurant that in order to have entertainment, it should be more than 500 feet away from a residential district, however, from exhibit A; the picture number 1 shows a distance of 374 ft. from the back of the building to the beginning of the residential district. The picture 2 shows 554 ft. from the beginning of the building to the entrance of the closest apartment. The picture 3

shows 538 ft. as the distance between where we plan to put the speakers to the entrance of the closest apartment.

However, we have already ordered a Certified Sound Level Meter which meets OSHA, ANSI and IEC standards. This meter holds data and can be downloaded; besides, we will fill out a log sheet (Exhibit B), every time we have entertainment. We will measure and hold the noise levels at 375 feet distance with the help of our certified sound meter you can rest assured that people living at 538 ft. from our building will never complain from high noise levels. This means that people living in the apartment complex will never get more than 55 decibels at any time, at least not from our restaurant.

Staff responds: As noted above, Staff and the Applicant have discussed the proposal at length and it is agreed that the Application cannot meet the requirements of §856(e) the code based on the separation requirements between the restaurant and the nearby residential zoning districts. As noted by the Applicant and as verified through the City's GIS, the distance from back of the building containing the tenant space of the restaurant to the property line of the nearest lot in the R16 residential zoning district to the north is approximately 375 feet.

f. Entertainment which includes sexual conduct, nudity, or obscenity shall be prohibited.

Applicant responds: *We will guarantee that entertainment will not include sexual content, nudity or obscenity.*

Staff responds: Based on the Applicant's response, Staff finds that the Applicant understands the provision of the Code and would note that noncompliance with these criteria may result in the zoning certificate for the conditional use being revoked.

g. The applicant shall provide guarantees as deemed necessary by the Board that the use of a property for a restaurant with entertainment will not constitute a nuisance because of noise or other activities associated with the use. The failure of the restaurant with entertainment's owner/managers to consistently abide by all conditions, limitations, and restrictions which may be specified by the Board in granting a conditional use may result in the certificate of occupancy for entertainment being revoked.

Applicant responds: *We will guarantee that the use of the property for a restaurant with entertainment will not constitute a nuisance because of noise or other activities associated with the use and the failure of the restaurant with entertainment's owner/managers to consistently abide by all conditions, limitations, and restrictions which may be specified by the Board in granting a conditional use may result in the certificate of occupancy for entertainment being revoked.*

Staff responds: Based on the Applicant's response, Staff finds that the Applicant understands the provision. Failure to comply with conditions, limitations, and restrictions may result in revocation of the certificate of occupancy for the conditional use.

h. The sound levels shall conform to Section 15-21 of the City Code.

Applicant responds: *However, we have already ordered a Certified Sound Level Meter which meets OSHA, ANSI and IEC standards. This meter holds data and can be downloaded; besides, we will fill out a log sheet (Exhibit B), every time we have entertainment. We will measure and hold the noise levels at 375 feet distance with the help of our certified sound meter you can rest assured that people living at 538 ft. from our building will never complain from high noise levels. This means that people living in the apartment complex will never get more than 55 decibels at any time, at least not from our restaurant.*

Staff responds: The Applicant has demonstrated knowledge of the sound levels in the response and has noted that it is the goal to not exceed 55 decibels off of the property. Per Section 15-21, the maximum allowable noise levels (dBA) for receiving zoning districts are as follows:

Day/Night	Industrial	Commercial	Residential
Day	75	67	65
Night	75	62	55

Lastly, as described in Section 312(e) of the LMC, in the decision making process the Zoning Board of Appeals should consider the following to the extent that they apply to the application:

- 1) The purpose, application, interpretation and standards of the LMC;
- 2) The applicable standards established in Articles 8 and 9 of the LMC;
- 3) The applicable legal standards;
- 4) The orderly growth and improvement of the neighborhood and the community;
- 5) The most appropriate use of land and structures in accordance with the Comprehensive Plan;
- 6) Facilities for sewer water transportation and other services and the ability of the City/County to supply these services;
- 7) The limitations of firefighting equipment and means of access for fire and police protection;
- 8) The effect of such use on the peaceful enjoyment of people in their homes
- 9) The number of people residing, working, or studying in the immediate area in order to prevent overcrowding or overconcentration of similar uses;
- 10) The type, character, and use of structures in the vicinity especially where people are apt to gather in large numbers such as schools, churches, theaters, hospitals and the like;
- 11) Traffic conditions including pedestrian facilities and parking facilities;
- 12) The preservation of cultural and historic landmarks;

- 13) The conservation of property values;
- 14) The effect of odors, dust gas smoke fumes vibration glare or noise on surrounding properties;
- 15) The contribution that the building, use or addition would make to towards the deterioration of areas and neighborhoods;
- 16) The objectives of the forest conservation ordinance.

STAFF RECOMMENDATION

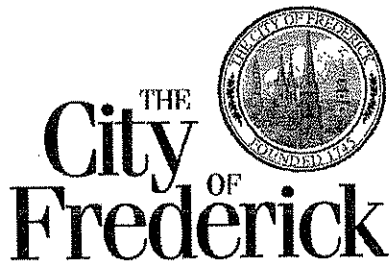
FINDINGS OF FACT

- The subject property is located in the General Commercial (GC) zoning district.
- The subject property is currently operating as a general restaurant.
- The Applicant has requested approval of a conditional use to allow entertainment to be provided in conjunction with the existing use.
- The Zoning Board of Appeals may authorize a *restaurant with entertainment* as a conditional use per Section 404, Table 404-1 of the LMC, entitled the *Use Matrix*, pending a finding of compliance with the applicable criteria established in Sections 308, 312, and 856 of the LMC.
- The Applicant is requesting approval for the establishment of entertainment in the form of acoustic or live (amplified) music and DJs.
- The restaurant sells food to the consumers in a ready-to-consume state.
- The restaurant provides 80.7% of the fire rated capacity with seating at tables.
- The tenant space where the restaurant with entertainment is located less than 500 feet (approximately 375 feet) from a lot in a residential district to the north of the subject property.

STAFF RECOMMENDATION

Based on the criteria established under §308 for the approval of conditional uses and the above noted findings of fact, Staff does not support the request for a restaurant with entertainment finding that:

1. That the proposed use is not in harmony with the purpose and intent of the LMC and the Comprehensive Plan.
2. That the proposed use has the potential to generate a greater adverse impact on adjacent properties than other uses permitted by right in the zoning district.
3. That the project does not comply with all of the criteria established under §856 of the LMC for the establishment of a restaurant with entertainment, specifically subsection (e) which requires restaurants with entertainment to be at least 500' from the nearest residentially zoned lot.



For Official Use Only	
ZBA Case Number:	13-87800
Hearing Date:	
Ad Date:	
Amount Paid:	\$650.00
Date Paid:	

Planning Department * 140 W. Patrick Street * Frederick, Maryland 21701 * 301.600.1499

ZONING BOARD OF APPEALS CONDITIONAL USE APPLICATION

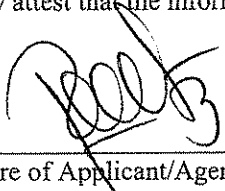
Please legibly print or type the following application in its entirety. Incomplete applications will not be accepted. Submit the twelve (12) copies of this application, and any supporting information, along with appropriate fees, by 4:30 pm on the application deadline date.

APPLICANT INFORMATION - OWNER'S AFFIDAVIT MUST BE SUBMITTED WITH APPLICATION.	
Contact Name:	Juan Rojas
Firm/Company:	Lallos Italian Restaurants, DBA Lallos Pizza
Address:	5 Willowdale Dr A-6 Frederick, MD 21702
Phone:	(240) 629 8515
	email: lallospizza@yahoo.com
OWNER INFORMATION	
Name:	Juan Rojas
Firm/Company:	Lallos Pizza
Address:	5179 Duke Ct, Frederick, MD 21703
Phone:	(301) 401 8047
	email: alrgasme@yahoo.com
TYPE OF CONDITIONAL USE	
Please complete the appropriate section.	
Home Occupation LMC Section 829	Name of Business: _____ Type of Business: _____ Description of Business: _____
Other LMC Section 8	Name of Use: _____ Type of Use: _____ Description of Use: _____

PROJECT INFORMATION		
Project Location: (Street Address) 5 Willowdale Dr A-6, Frederick, MD. 21702		
Current Zoning: Willowtree Plaza - Lallo's Pizza		
Current Use: Restaurant & Bar		
FEES		
Type of Review	Fee	Total
Conditional Use Home Occupation	\$100.00	
All other Conditional Uses	\$650.00	
JUSTIFICATION FOR CONDITIONAL USE		
<p>LMC Section 308(c) states that "The Zoning Board of Appeals may authorize conditional uses only when the Board finds that the following conditions exist."</p> <p>(Please respond to each condition statement in the area provided - use additional paper if necessary.)</p>		
<p>1. The proposed use is in harmony with the purpose and intent of the Comprehensive Plan and this Code. Entertainment will never include nudity or sexual conduct. Entertainment will never affect our neighbors or surrounding communities.</p>		
<p>2. The characteristics of the use and its operation on the property in question and in relation to adjacent properties will not create any greater adverse impact than the operation of any permitted use not requiring conditional use approval. Entertainment will be offered to solely enhance dining experience of patrons. Well trained security staff will be on duty when DJ or live music take place.</p>		
<p>3. That the proposed activity will comply with all conditions and requirements set forth in this code, including any specific standards established in Article 8 of this Code (see 1-6 below for home occupations). Our restaurant will follow and meet all requirements set by the City of Frederick.</p>		
FOR HOME OCCUPATION APPLICATIONS ONLY:		
<p>LMC Section 829(c) states that "Home occupations are permitted as a conditional use in all R, all D, NC and GC districts if all of the following conditions and requirements are met:"</p> <p>(Please respond to each condition statement in the area provided - use additional paper if necessary.)</p>		
<p>(1) The applicant must provide guarantees that the use of a property as a home occupation will not constitute a nuisance because of increased pedestrian or vehicular traffic, noise, or other activity associated with the use of the dwelling for business purposes which may be disruptive to the residential character of the neighborhood.</p>		

- | |
|---|
| (2) A home occupation must be secondary to the residential use of the property and shall be conducted totally within the dwelling. Not more than 20 percent of the floor area of the dwelling or 300 square feet, whichever is greater, may be devoted to a home occupation. |
| (3) Only one (1) person who is not a resident of the dwelling may be employed/work/volunteer on site in conduct of a home occupation. |
| (4) A home occupation may not result in any external evidence that a building is being used for any purpose other than a dwelling. |
| (5) Except for the permitted employee who may be employed, a home occupation may result in no vehicular traffic, except for a maximum of one (1) daily local home delivery from services such as UPS or FedEx, and in no case shall result in delivery by tractor-trailer trucks. |
| (6) If deemed appropriate, the Board may permit a home occupation for a specified period of time with periodic review and approval required to ensure conformity with the conditions and requirements. |

I hereby attest that the information provided on and attached to this application is complete and correct.



Signature of Applicant/Agent

NOV - 18 - 2013

Date

AGENT AUTHORIZATION LETTER

I / WE, DANIEL L. GLICK, Managing Member, representing
 (Individual's name -- please type or print in ink)

Willow Tree PLAZA Associates LLC
 (Corporate name, if applicable)

being the current owner(s) of the property legally described as follows:

do hereby designate and authorize Juan Rojas
 (Individual's name -- please type or print in ink)

representing, Lallo's Italian Restaurants, LLC - Lallo's Pizza -
 (Corporate name, if applicable)

to act as my / our agent in applying to the City of Frederick for a Permit for
Restaurant with entertainment approval in conjunction with the
section 856

project involving the property described above, and
 to sign on my / our behalf all application forms and other documents which may be necessary for this purpose.

Daniel Glick DANIEL L. GLICK,
 (Signature of property owner) (Type or print name of signatory)

Willow Tree Plaza Associates LLC, Managing Partner
 (Title and corporate name, if applicable)

All correspondence will be sent to the applicant. If the owner also wishes to receive a copy, please check box: ☒

State of Maryland, County of Frederick

The foregoing indenture was acknowledged before me this

15th day of November, 2013

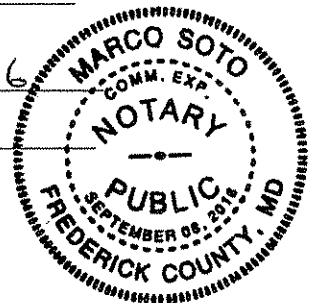
by Daniel L. Glick
 who is personally known to me, or who has produced

as identification, and who did / did not take an oath.

Marco Soto, Notary Public, State of Maryland
 (Notary's signature)

Commission No. _____ My Commission Expires: September 8, 2016

Name of notary (typed, printed, or stamped) Marco Soto



Lallo's Italian Restaurants, LLC
Lallo's Pizza
5 Willowdale Dr A-6
Frederick, MD. 21702
(240) 629-8516
support@lallospizza.com

November 17, 2013

Zoning Board of Appeals
140 West Patrick Street
Frederick, MD. 21701

To Whom this May Concern:

I and my family have been running a business in Frederick since 1998, known as Lallo's Pizza. Our Frederick Towne Mall location operated since 1998 – until the last day of 2010. Before closing down this location we opened a formal restaurant in Knoxville, MD (at the former Hawaiian Motel). It's been operating since May 2010.

My kids grew up in the Golden Mile area, we felt like part of our lives were destroyed with the closure of the Frederick Towne Mall and some other businesses in the Golden Mile. Before opening the Knoxville location we looked at every single space available at the Golden Mile with no luck for what we wanted.

From time to time, my family and I came back to have dinner at several of the Golden Mile restaurants. We honestly were upset of how the Restaurants in the area don't help to bring the Golden Mile alive. Most of the restaurants close at 9 pm or some restaurants with entertainment do not offer food while offering entertainment, or what is worse; some "National" restaurants even close earlier than posted hours because of "slow business". Some other places are mainly bars full of drunks where we cannot take our family to those places for dinner.

Around summer of 2012 we were contacted and visited by the owner of Willowtree Plaza, whom offered to us a space at his shopping center. At that time, I felt like I had the great opportunity to come back to the Golden Mile and try to help to change how the things are done in the area. Unfortunately, I was working full time at the restaurant, so I wasn't prepared to leave the business running without me, I had to make a plan and properly train my staff.

At the beginning of 2013, I was again visited several times by the owner of Willowtree plaza to offer me the vacant space that Buffalo wings and Beer had left at the end of 2012. In that moment, I didn't doubt a second to take the opportunity to help to change the way the Golden Mile overall is seen.

When we left the mall, as I mentioned before, we did open a formal restaurant in Knoxville with capacity for 152 people. This space was formerly known as the "Hawaiian Motel", in which the famous country star "Patsy Cline" used to hang out and perform. Because our restaurant always has had a stage, we wanted to use it to continue offering entertainment.

JR

Every Thursday and Friday from 6 – 8 pm we offer acoustic music to enhance the dining experience of our customers. Classic rock, country and oldies are played. The third Thursday of the month Bobbi Schell comes to sing hits from the 40's, 50's and 60's including all Patsy Cline songs. This day of the month, people have to make reservations in advance because it is really hard to find a table. Our customers just love it.

On weekends, we give opportunity to the local musicians to play live music at our establishment. The music they play is rock.

Since the time we opened our restaurant in Knoxville, more than 150 rock shows have been taken place. More than 300 local and National rock bands have performed at our establishment; even Rock Bands from Australia, Austria, Canada, UK and Mexico have played here. People have used our place to celebrate birthdays, first communions, baptisms, baby showers, sweet sixteen parties. Our restaurant is the official place to host the end of year celebration parties for every sport team from the Brunswick High School. All this without a single call to the police, or complains from our neighbors. In part because we manage our restaurant in a very professional way, we care about our neighbors, our community and our family.

We wanted to use all this great reputation for our great food and for how we manage our business to help bring more business at the Golden Mile.

We are requesting to have permit from the City to include entertainment at out location as follows:

- Every Thursday and Friday from 6:00 pm – 8:00 pm Acoustic Music.
- Sunday through Saturday from 9:00 pm – 02:00 am DJ or Live music.

Even when most of the entertainment will be held from Thursday through Saturday. We would like to have permission to accommodate entertainment and special parties during holidays or weekdays.

We understand the ordinance requires a restaurant that in order to have entertainment, it should be more that 500 feet away from a residential district, however, from **exhibit A**; the picture number 1 shows a distance of 374 ft from the back of the building to the beginning of the residential district. The picture 2 shows 554 ft from the beginning of the building to the entrance of the closest apartment. The picture 3 shows 538 ft as the distance between where we plan to put the speakers to the entrance of the closest apartment.

However, we have already ordered a Certified Sound level Meter which meets OSHA, ANSI and IEC standards. This meter holds data and can be downloaded; besides, we will fill out a log sheet (**Exhibit B**), every time we have entertainment. We will measure and hold the noise levels at 375 feet distance, with the help of our certified Sound meter you can rest assured that people leaving at 538 ft from our building will never complain from high noise levels. This means that people living in the apartment complex will never get more than 55 decibels at any time, at least not from our restaurant.

JR

We don't want to transform our Restaurant in the Golden Mile into a Bar. Instead, we will do all necessary to achieve our goal. Our goal is to create a successful and longevity restaurant, providing guests with quality foods, beverages and entertainment in the safest environment possible. Our restaurant will be an asset for the Golden Mile and for the community.

We will be in strict accordance to all local ordinances. We will require that all our bartenders and cocktail servers are certified in alcohol awareness, so they can help to reduce incidents of "over-serving".

We will provide a well trained security staff to prevent and cease any fights, thefts or sexual harassment that is sometimes the result of intoxicated customers.

All our DJ and Live music shows will be for 21 and older only. We will keep our own promise of "Zero Tolerance" to underage drinking at our premises or somewhere else.

Our restaurant sells food to the consumers in a ready-to-consume state

We will maintain the harmony with our neighbors and the community.

We will keep seats for at least 80% of our legal capacity (**Exhibit C**).

We will guarantee that the entertainment will not include Sexual content, nudity or obscenity.

We will guarantee that the sales of alcoholic beverages will never be greater that (40) percent of the quarterly revenues (**Exhibit D**).

We will guarantee that the use of the property for a restaurant with entertainment will not constitute a nuisance because of noise or other activities associated with the use and that the failure of the owner/manager of constantly abide by all conditions, limitations and restrictions which may be specified by the Board in granting the conditional use will result in the certificate of occupancy for entertainment being revoked.

Sincerely,

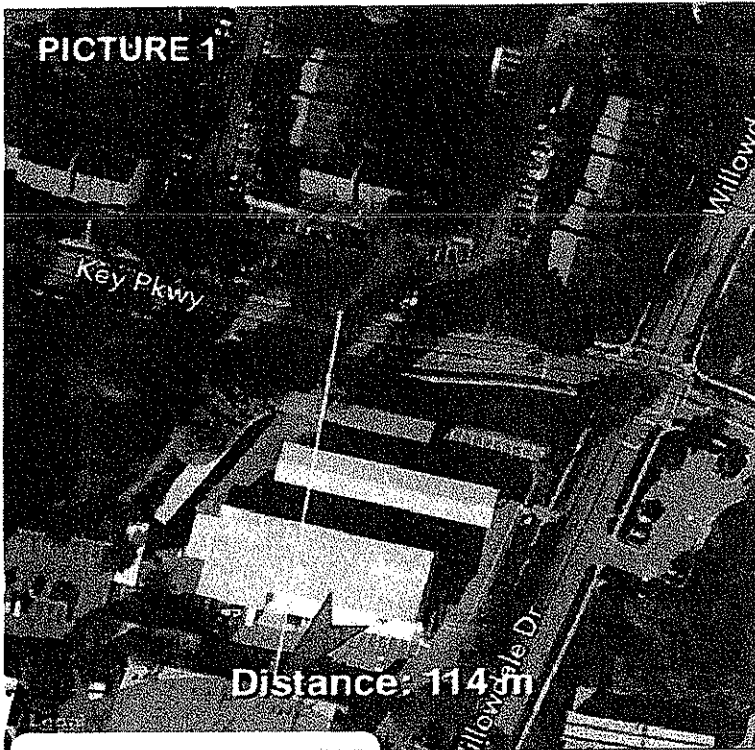


Juan Rojas
Owner and President

EXHIBIT (A)



PICTURE 1
Distance from back of building
to residential district equals:
114 m (374 ft).



1 meter(m) is equivalent to 3.2808 ft

$$\text{ft} = \text{m} * 3.2808$$

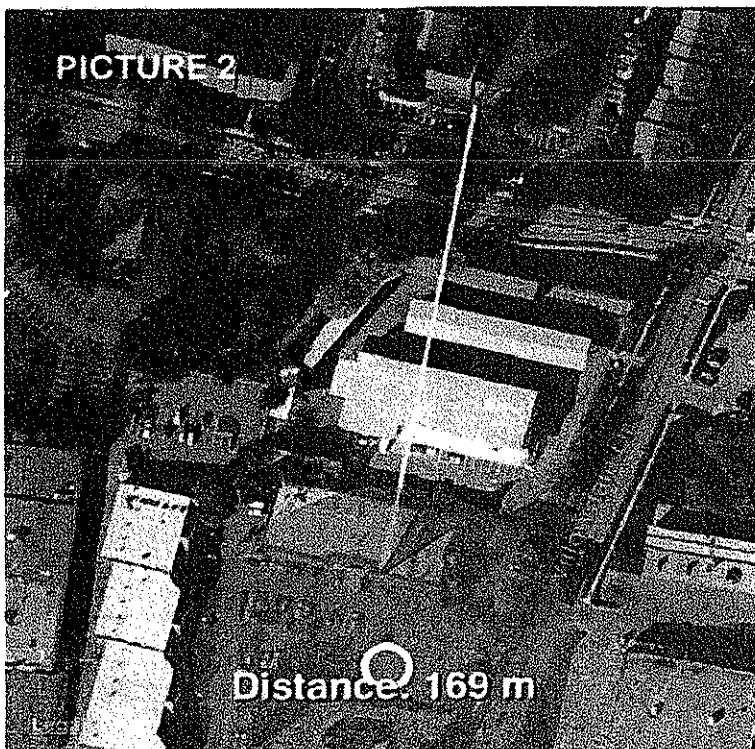
Picture 1,
 $114 * 3.2808 = 374.01 \text{ ft}$

Picture 2,
 $169 * 3.2808 = 554.45 \text{ ft}$

Picture 3,
 $164 * 3.2808 = 538.05 \text{ ft}$

PICTURES TAKEN USING
DistMeasure Application

PICTURE 2
Distance from back of building
to first actual apartment equals:
169 m (554 ft).



PICTURE 3
Distance from actual place of speakers
to first actual apartment equals:
164 m (538 ft).

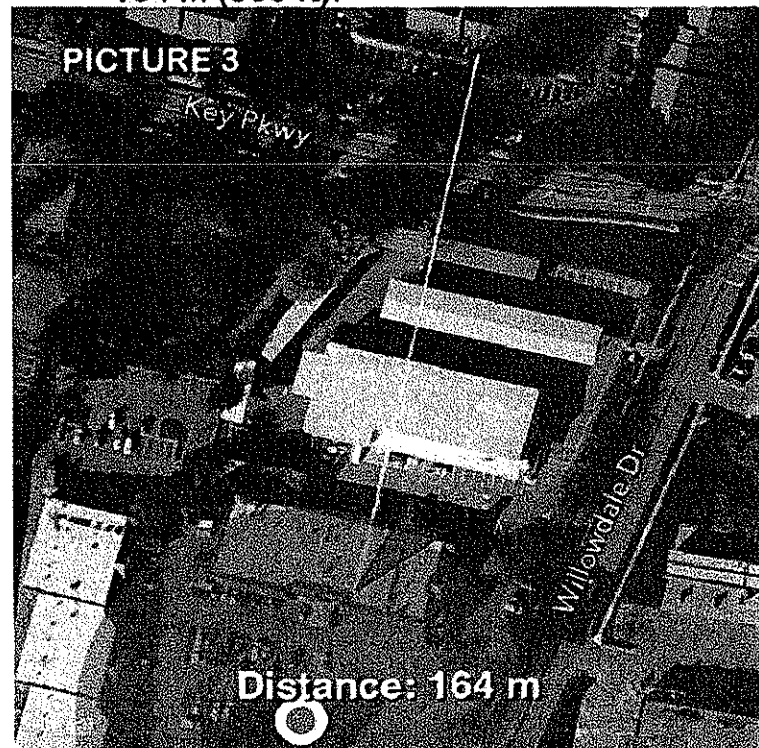




EXHIBIT B

Lallo's Pizza - Golden Mile Sound Levels Log Sheet

Date: _____

Kind of Entertainment:

☐

DJ

☐

Acoustic

☐

Live Music

	Time:	dBA:	Taken by:	Initials:
Beginning of show:				
Middle of show:				
Before end of show:				

Procedure to fill this form:

- 1.- Record date of entertainment.
- 2.- Take the certified sound level meter across Key Parkway when doing sound check.
- 3.- While doing sound check, measure Noise levels (beginning of show)
make sure that Noise level never reach more that 55 dBA. Adjust sound levels if necessary.
- 4.- Record dBA measured by the Sound meter.
- 5.- Record time at moment of reading sound meter.
- 6.- Record name of person who did the measure sound levels.
- 7.- Initial your name.
- 8.- Repeat steps 2 -7 at middle of show.
- 9.- Repeat steps 2 -7 right before end of show.
- 10.- Keep records for at least 3 years.

Sound Level Meter with Backlit Display



Two range meter
With backlit LCD display

Features:

- High accuracy meets ANSI and IEC 651 Type 2 standards
- High and Low measuring ranges
- Data Hold and Max Hold functions
- Backlit display to view in dimly lit area
- Complete with microphone wind screen and 9V battery

Applications:

- Enforcing community noise ordinances
- Meeting government safety issues (OSHA)
- Installing audio systems
- Product noise certification and reduction



Specifications:	
Display Counts	2000 count LCD
Range	Low: 35 to 100dB High: 65 to 130dB
Basic Accuracy	±1.5dB
Weighting (A & C)	Yes
Response Time (Fast/Slow)	Yes
Condenser Microphone	0.5" (12.7mm)
Dimensions	8.2x2.1x1.25" (210x55x32mm)
Weight	8.1oz (230g)

Ordering Information:

407732.....Sound Level Meter with Backlit Display
407732-NIST.....Sound Level Meter with Backlit Display with NIST



PATIO

PATIO

PLANTS

Speakers

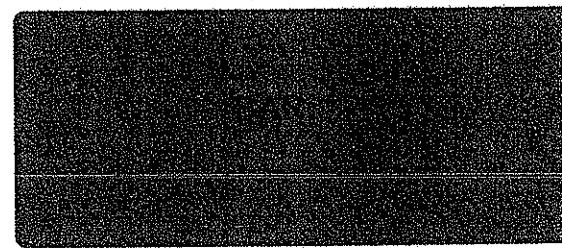
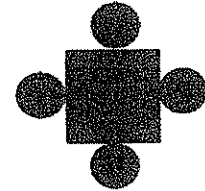
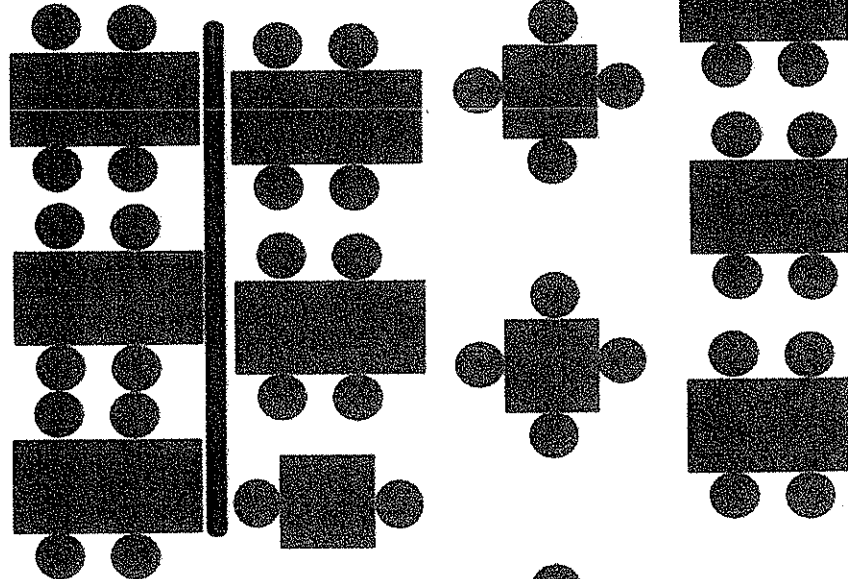
ENTRANCE



Lallo's Pizza
5 Willowdale Dr A-6
Frederick, MD. 21702

EXHIBIT C SEATING CHART

Legal capacity: 114
80% of 114 equals 91.2
Actual seating: 92
Not counting bar stools



KITCHEN

BATHROOMS

STORAGE
ROOM

For 08/01/2013-10/31/2013

Sales Summary By Class		
Class	Sales Volume	Percentage
Alc/Other	0.00	0
Beer	1292.66	7
Cards/Certificates	0.00	0
Drinks	1389.71	7
Food	15183.65	82
Gratuities	0.00	0
Liquor	148.85	1
N/A	0.00	0
Open	31.56	0
Pizza	501.45	3
Retail	0.00	0
Services	0.00	0
Tobacco	0.00	0
Wine	0.00	0

EXHIBIT D

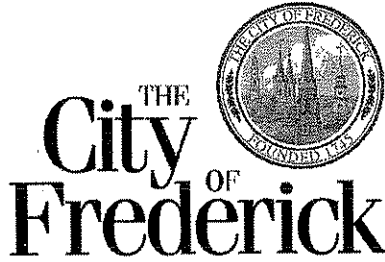
Beer = 7%

Liquor = 1%

Wine = 0%

Total BLW = 8%

Peeb



For Official Use Only	
ZBA Case Number:	13-878C4
Hearing Date:	
Ad Date:	
Amount Paid:	\$650.00
Date Paid:	

Planning Department * 140 W. Patrick Street * Frederick, Maryland 21701 * 301.600.1499

ZONING BOARD OF APPEALS CONDITIONAL USE APPLICATION

Please legibly print or type the following application in its entirety. Incomplete applications will not be accepted. Submit the twelve (12) copies of this application, and any supporting information, along with appropriate fees, by 4:30 pm on the application deadline date.

APPLICANT INFORMATION - OWNER'S AFFIDAVIT MUST BE SUBMITTED WITH APPLICATION.	
Contact Name:	Juan Rojas
Firm/Company:	Lallos Italian Restaurants, DBA Lallos Pizza
Address:	5 Willowdale Dr A-6 Frederick, MD 21702
Phone:	(240) 629 8515 email: lallospizza@yahoo.com
OWNER INFORMATION	
Name:	Juan Rojas
Firm/Company:	Lallos Pizza
Address:	5179 Duke Ct, Frederick, MD 21703
Phone:	(301) 401 8047 email: alrojasme@yahoo.com
TYPE OF CONDITIONAL USE	
Please complete the appropriate section.	
Home Occupation LMC Section 829	Name of Business: _____ Type of Business: _____ Description of Business: _____
Other LMC Section 8	Name of Use: _____ Type of Use: _____ Description of Use: _____

PROJECT INFORMATION		
Project Location: (Street Address)	5 Willowdale Dr A-6, Frederick, MD. 21702	
Current Zoning:	Willowtree Plaza - Lallo's Pizza	
Current Use:	Restaurant & Bar	
FEES		
Type of Review	Fee	Total
Conditional Use Home Occupation	\$100.00	
All other Conditional Uses	\$650.00	
JUSTIFICATION FOR CONDITIONAL USE		
<p>LMC Section 308(c) states that "The Zoning Board of Appeals may authorize conditional uses only when the Board finds that the following conditions exist."</p> <p>(Please respond to each condition statement in the area provided - use additional paper if necessary.)</p>		
<p>1. The proposed use is in harmony with the purpose and intent of the Comprehensive Plan and this Code. Entertainment will never include nudity or sexual conduct. Entertainment will never affect our neighbors or surrounding communities.</p>		
<p>2. The characteristics of the use and its operation on the property in question and in relation to adjacent properties will not create any greater adverse impact than the operation of any permitted use not requiring conditional use approval. Entertainment will be offered to solely enhance dining experience of patrons. Well trained security staff will be on duty when DJ or live music take place.</p>		
<p>3. That the proposed activity will comply with all conditions and requirements set forth in this code, including any specific standards established in Article 8 of this Code (see 1-6 below for home occupations). Our restaurant will follow and meet all requirements set by the City of Frederick.</p>		
FOR HOME OCCUPATION APPLICATIONS ONLY:		
<p>LMC Section 829(c) states that "Home occupations are permitted as a conditional use in all R, all D, NC and GC districts if all of the following conditions and requirements are met:"</p> <p>(Please respond to each condition statement in the area provided - use additional paper if necessary.)</p>		
<p>(1) The applicant must provide guarantees that the use of a property as a home occupation will not constitute a nuisance because of increased pedestrian or vehicular traffic, noise, or other activity associated with the use of the dwelling for business purposes which may be disruptive to the residential character of the neighborhood.</p>		

- | |
|---|
| (2) A home occupation must be secondary to the residential use of the property and shall be conducted totally within the dwelling. Not more than 20 percent of the floor area of the dwelling or 300 square feet, whichever is greater, may be devoted to a home occupation. |
| (3) Only one (1) person who is not a resident of the dwelling may be employed/work/volunteer on site in conduct of a home occupation. |
| (4) A home occupation may not result in any external evidence that a building is being used for any purpose other than a dwelling. |
| (5) Except for the permitted employee who may be employed, a home occupation may result in no vehicular traffic, except for a maximum of one (1) daily local home delivery from services such as UPS or FedEx, and in no case shall result in delivery by tractor-trailer trucks. |
| (6) If deemed appropriate, the Board may permit a home occupation for a specified period of time with periodic review and approval required to ensure conformity with the conditions and requirements. |

I hereby attest that the information provided on and attached to this application is complete and correct.



Signature of Applicant/Agent

NOV - 18 - 2013
Date

AGENT AUTHORIZATION LETTER

I / WE, DANIEL L. GLICK, Managing Member, representing
(Individual's name -- please type or print in ink)
Willow Tree Plaza Associates LLC
(Corporate name, if applicable)

being the current owner(s) of the property legally described as follows:

do hereby designate and authorize Juan Rojas
(Individual's name -- please type or print in ink)
 representing, Lallo's Italian Restaurants, LLC - Lallo's Pizza -
(Corporate name, if applicable)

to act as my / our agent in applying to the City of Frederick for a Permit for
Restaurant with entertainment approval in conjunction with the
section 856 project involving the property described above, and
 to sign on my / our behalf all application forms and other documents which may be necessary for this purpose.

Daniel Glick DANIEL L. GLICK
(Signature of property owner) (Type or print name of signatory)
Willow Tree Plaza Associates LLC, Managing Partner
(Title and corporate name, if applicable)

All correspondence will be sent to the applicant. If the owner also wishes to receive a copy, please check box: ☒

State of Maryland, County of Frederick

The foregoing indenture was acknowledged before me this

15th day of November, 2013

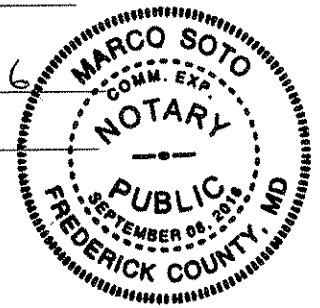
by Daniel L. Glick,
 who is personally known to me, or who has produced

as identification, and who did / did not take an oath.

Marco Soto, Notary Public, State of Maryland
(Notary's signature)

Commission No. _____ My Commission Expires: September 8, 2016

Name of notary (typed, printed, or stamped) Marco Soto



Lallo's Italian Restaurants, LLC
Lallo's Pizza
5 Willowdale Dr A-6
Frederick, MD. 21702
(240) 629-8516
support@lallospizza.com

November 17, 2013

Zoning Board of Appeals
140 West Patrick Street
Frederick, MD. 21701

To Whom this May Concern:

I and my family have been running a business in Frederick since 1998, known as Lallo's Pizza. Our Frederick Towne Mall location operated since 1998 – until the last day of 2010. Before closing down this location we opened a formal restaurant in Knoxville, MD (at the former Hawaiian Motel). It's been operating since May 2010.

My kids grew up in the Golden Mile area, we felt like part of our lives were destroyed with the closure of the Frederick Towne Mall and some other businesses in the Golden Mile. Before opening the Knoxville location we looked at every single space available at the Golden Mile with no luck for what we wanted.

From time to time, my family and I came back to have dinner at several of the Golden Mile restaurants. We honestly were upset of how the Restaurants in the area don't help to bring the Golden Mile alive. Most of the restaurants close at 9 pm or some restaurants with entertainment do not offer food while offering entertainment, or what is worse; some "National" restaurants even close earlier than posted hours because of "slow business". Some other places are mainly bars full of drunks where we cannot take our family to those places for dinner.

Around summer of 2012 we were contacted and visited by the owner of Willowtree Plaza, whom offered to us a space at his shopping center. At that time, I felt like I had the great opportunity to come back to the Golden Mile and try to help to change how the things are done in the area. Unfortunately, I was working full time at the restaurant, so I wasn't prepared to leave the business running without me, I had to make a plan and properly train my staff.

At the beginning of 2013, I was again visited several times by the owner of Willowtree plaza to offer me the vacant space that Buffalo wings and Beer had left at the end of 2012. In that moment, I didn't doubt a second to take the opportunity to help to change the way the Golden Mile overall is seen.

When we left the mall, as I mentioned before, we did open a formal restaurant in Knoxville with capacity for 152 people. This space was formerly known as the "Hawaiian Motel", in which the famous country star "Patsy Cline" used to hang out and perform. Because our restaurant always has had a stage, we wanted to use it to continue offering entertainment.

JR

Every Thursday and Friday from 6 – 8 pm we offer acoustic music to enhance the dining experience of our customers. Classic rock, country and oldies are played. The third Thursday of the month Bobbi Schell comes to sing hits from the 40's, 50's and 60's including all Patsy Cline songs. This day of the month, people have to make reservations in advance because it is really hard to find a table. Our customers just love it.

On weekends, we give opportunity to the local musicians to play live music at our establishment. The music they play is rock.

Since the time we opened our restaurant in Knoxville, more than 150 rock shows have been taken place. More than 300 local and National rock bands have performed at our establishment; even Rock Bands from Australia, Austria, Canada, UK and Mexico have played here. People have used our place to celebrate birthdays, first communions, baptisms, baby showers, sweet sixteen parties. Our restaurant is the official place to host the end of year celebration parties for every sport team from the Brunswick High School. All this without a single call to the police, or complains from our neighbors. In part because we manage our restaurant in a very professional way, we care about our neighbors, our community and our family.

We wanted to use all this great reputation for our great food and for how we manage our business to help bring more business at the Golden Mile.

We are requesting to have permit from the City to include entertainment at out location as follows:

- Every Thursday and Friday from 6:00 pm – 8:00 pm Acoustic Music.
- Sunday through Saturday from 9:00 pm – 02:00 am DJ or Live music.

Even when most of the entertainment will be held from Thursday through Saturday. We would like to have permission to accommodate entertainment and special parties during holidays or weekdays.

We understand the ordinance requires a restaurant that in order to have entertainment, it should be more that 500 feet away from a residential district, however, from **exhibit A**; the picture number 1 shows a distance of 374 ft from the back of the building to the beginning of the residential district. The picture 2 shows 554 ft from the beginning of the building to the entrance of the closest apartment. The picture 3 shows 538 ft as the distance between where we plan to put the speakers to the entrance of the closest apartment.

However, we have already ordered a Certified Sound level Meter which meets OSHA, ANSI and IEC standards. This meter holds data and can be downloaded; besides, we will fill out a log sheet (**Exhibit B**), every time we have entertainment. We will measure and hold the noise levels at 375 feet distance, with the help of our certified Sound meter you can rest assured that people leaving at 538 ft from our building will never complain from high noise levels. This means that people living in the apartment complex will never get more than 55 decibels at any time, at least not from our restaurant.

JR

We don't want to transform our Restaurant in the Golden Mile into a Bar. Instead, we will do all necessary to achieve our goal. Our goal is to create a successful and longevity restaurant, providing guests with quality foods, beverages and entertainment in the safest environment possible. Our restaurant will be an asset for the Golden Mile and for the community.

We will be in strict accordance to all local ordinances. We will require that all our bartenders and cocktail servers are certified in alcohol awareness, so they can help to reduce incidents of "over-serving".

We will provide a well trained security staff to prevent and cease any fights, thefts or sexual harassment that is sometimes the result of intoxicated customers.

All our DJ and Live music shows will be for 21 and older only. We will keep our own promise of "Zero Tolerance" to underage drinking at our premises or somewhere else.

Our restaurant sells food to the consumers in a ready-to-consume state

We will maintain the harmony with our neighbors and the community.

We will keep seats for at least 80% of our legal capacity (**Exhibit C**).

We will guarantee that the entertainment will not include Sexual content, nudity or obscenity.

We will guarantee that the sales of alcoholic beverages will never be greater that (40) percent of the quarterly revenues (**Exhibit D**).

We will guarantee that the use of the property for a restaurant with entertainment will not constitute a nuisance because of noise or other activities associated with the use and that the failure of the owner/manager of constantly abide by all conditions, limitations and restrictions which may be specified by the Board in granting the conditional use will result in the certificate of occupancy for entertainment being revoked.

Sincerely,

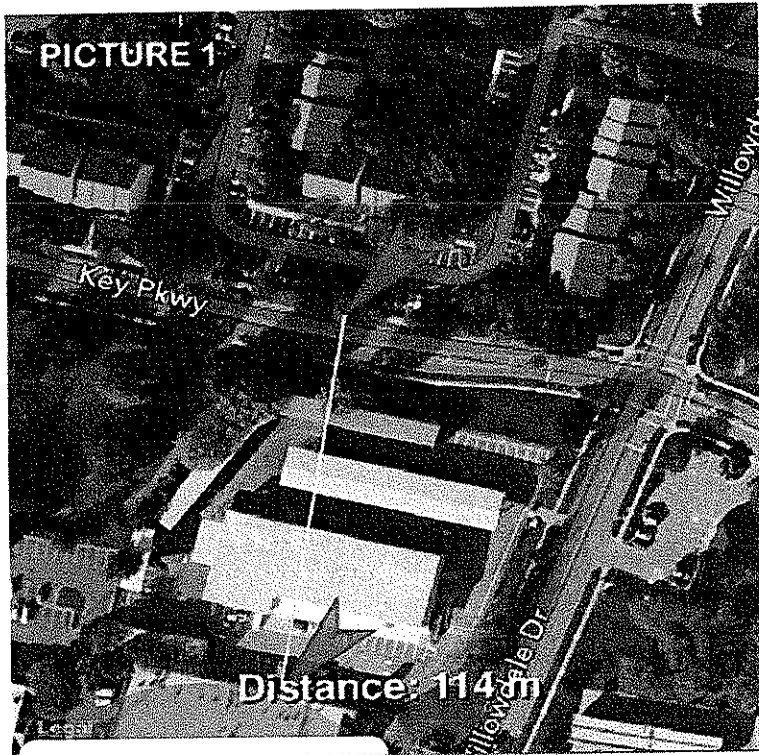


Juan Rojas
Owner and President

EXHIBIT (A)



PICTURE 1
Distance from back of building
to residential district equals:
114 m (374 ft).



1 meter(m) is equivalent to 3.2808 ft

$$\text{ft} = \text{m} * 3.2808$$

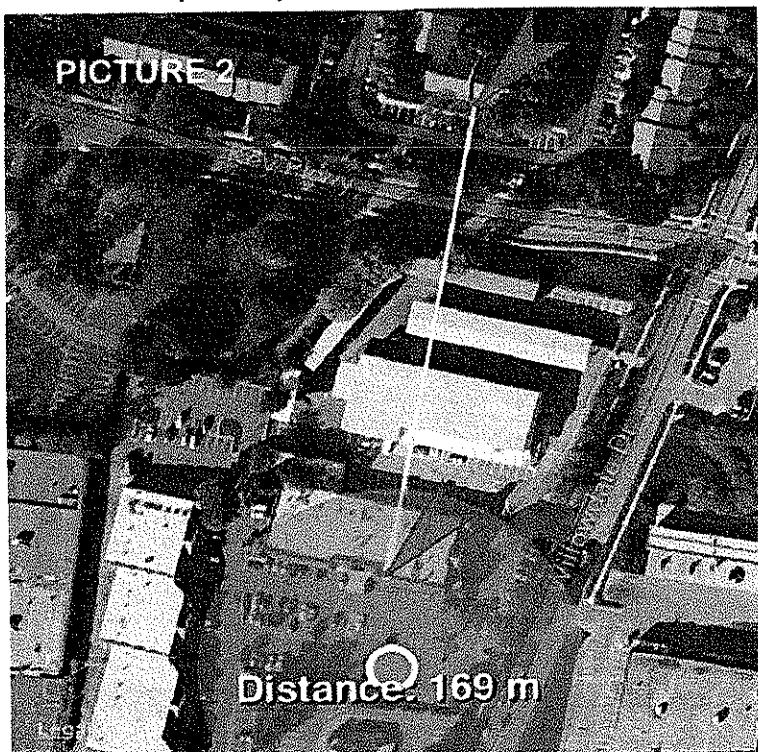
Picture 1,
 $114 * 3.2808 = 374.01 \text{ ft}$

Picture 2,
 $169 * 3.2808 = 554.45 \text{ ft}$

Picture 3,
 $164 * 3.2808 = 538.05 \text{ ft}$

PICURES TAKEN USING
DistMeasure Application.

PICTURE 2
Distance from back of building
to first actual apartment equals:
169 m (554 ft).



PICTURE 3
Distance from actual place of speakers
to first actual apartment equals:
164 m (538 ft).

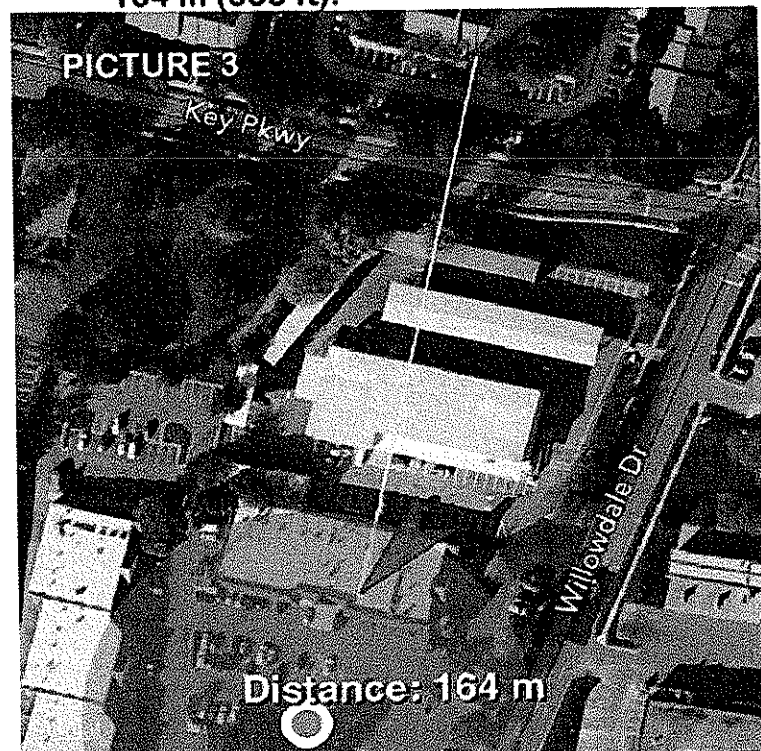


EXHIBIT B



Lallo's Pizza - Golden Mile Sound Levels Log Sheet

Date: _____

Kind of Entertainment:

☐

DJ

☐

Acoustic

☐

Live Music

Time:	dBA:	Taken by:	Initials:
-------	------	-----------	-----------

Beginning of show:			
--------------------	--	--	--

Middle of show:			
-----------------	--	--	--

Before end of show:			
---------------------	--	--	--

Procedure to fill this form:

- 1.- Record date of entertainment.
- 2.- Take the certified sound level meter across Key Parkway when doing sound check.
- 3.- While doing sound check, measure Noise levels (beginning of show)
make sure that Noise level never reach more that 55 dBA. Adjust sound levels if necessary.
- 4.- Record dBA measured by the Sound meter.
- 5.- Record time at moment of reading sound meter.
- 6.- Record name of person who did the measure sound levels.
- 7.- Initial your name.
- 8.- Repeat steps 2 -7 at middle of show.
- 9.- Repeat steps 2 -7 right before end of show.
- 10.- Keep records for at least 3 years.

Sound Level Meter with Backlit Display



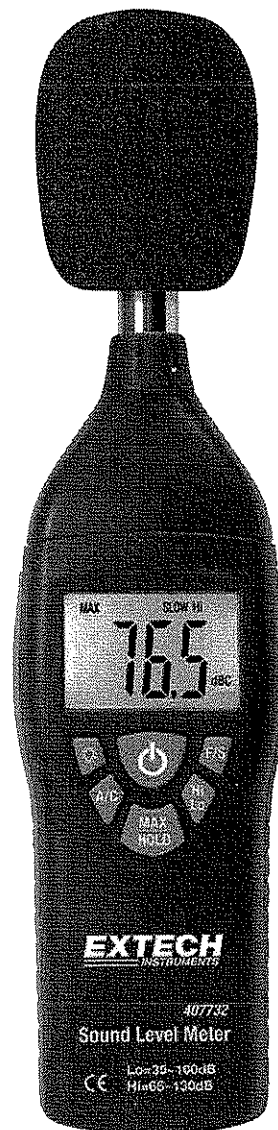
Two range meter
With backlit LCD display

Features:

- High accuracy meets ANSI and IEC 651 Type 2 standards
- High and Low measuring ranges
- Data Hold and Max Hold functions
- Backlit display to view in dimly lit area
- Complete with microphone wind screen and 9V battery

Applications:

- Enforcing community noise ordinances
- Meeting government safety issues (OSHA)
- Installing audio systems
- Product noise certification and reduction



Specifications	
Display Counts	2000 count LCD
Range	Low: 35 to 100dB High: 65 to 130dB
Basic Accuracy	±1.5dB
Weighting (A & C)	Yes
Response Time (Fast/Slow)	Yes
Condenser Microphone	0.5" (12.7mm)
Dimensions	8.2x2.1x1.25" (210x55x32mm)
Weight	8.1oz (230g)

Ordering Information:

407732.....Sound Level Meter with Backlit Display
407732-NISTSound Level Meter with Backlit Display with NIST



PATIO

PATIO

PLANTS

Speakers

ENTRANCE



Lallo's Pizza
5 Willowdale Dr A-6
Frederick, MD. 21702

**EXHIBIT C
SEATING CHART**

Legal capacity: 114
80% of 114 equals 91.2
Actual seating: 92
Not counting bar stools

BAR

KITCHEN

BATHROOMS

STORAGE
ROOM

For 08/01/2013-10/31/2013

Sales Summary By Class		
Class	Sales Volume	Percentage
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Liquor	148.85	1
N/A	0.00	0
Open	31.56	0
Pizza	501.45	3
Retail	0.00	0
Services	0.00	0
Tobacco	0.00	0
Wine	0.00	0

EXHIBIT D

Beer = 7%

Liquor = 1%

Wine = 0%

Total BLW = 8%

Pact